

March 8, 1937

Honorable James E. Babbitt  
Senate  
Capitol Building  
Phoenix, Arizona

Dear Mr. Babbitt:

You asked for an opinion as to the constitutionality of Senate Bill 49, together with an opinion as to the necessity of the amendment which you offered to Section 11 of the Bill.

An examination of the Bill discloses the following situation: Under Section 14 of the printed Bill, Subdivision "b", the Commission is authorized in arriving at the full cash value of stock or other evidence of ownership of financial institutions, to take into consideration the following: "assets, liabilities, surplus and undivided profits, etc."

Under Section 16, line 41 on page 10 we find that in arriving at the value of any trade or business the following is taken into consideration under Subdivision "4" of Section 16: "all capital represented by intangible property, including as separate items money on deposit in banks, money deposited elsewhere or on hand, credits, bills and accounts receivable less bills and accounts payable, securities, judgments, etc."

Under subdivision "b" of Section 16, we find again the method of determining the value of shares of stock which includes "assets, liabilities, surplus and undivided profits, etc." Under this Bill there are several classes of intangibles from which no deduction of liabilities is permitted.

It is my opinion that unless all classes of intangibles are permitted to deduct therefrom corresponding liabilities, the law would be unconstitutional; that the legislature may classify intangibles, but the method of arriving at the value of the intangibles must be equal, and the legislature could not lawfully permit one class to deduct liabilities and not another.

Very truly yours,

JOE CONWAY  
Attorney General

E. G. FRAZIER, Special Assistant  
Attorney General